

1237

H. C. DEVINE and ELLA
V. DEVINE,

Plaintiffs,

vs.

A. G. MILES and ETHEL
BARGINERA MILES,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE.

Come the Plaintiffs in the above styled cause and for
Replication to the Defendants' suggestion of a disputed boundary
line say:

That the true boundary line between the property of the
Plaintiffs and that of the Defendants is the West line of the
following described land to-wit:

Begin at the Southeast corner of Section 23, Township
5 South, Range 3 East, run thence West along South
line of said Section 1354 feet to a point; run thence
North 662 feet to a point which is the point of
beginning; run thence West 168 feet to a point; run
thence North 662 feet to a point; run thence East
168 feet to a point; run thence South 662 feet to the
point of beginning, said land being situated in
Baldwin County, Alabama.

Herbert R. Stone
Attorneys for Plaintiffs.

REPLICATION

H. C. DEVINE and ELLA V.
DEVINE,

Plaintiffs,

vs.

A. G. MILES and ETHEL
BARGINEAR MILES,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA,
LAW SIDE.

Filed March 11th, 1949.

Felton J. Marbleberry, Jr.
Clerk. Judge

H. G. DEVINE ET AL.

PLAINTIFFS

VS.

A. G. MILES ET AL.

DEFENDANTS

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

AT LAW

NO. 1236

We, A. G. Miles, Ethel Barginear Miles and H. M. Hall, acknowledge ourselves security for all the costs of the appeal taken to the Supreme Court by the said A. G. Miles and Ethel Barginear Miles, from the said judgment in said cause.

G. G. Miles
Ethel Barginear Miles
H. M. Hall

approved

12-8-49

Alicia J. Hucks
Clerk

Security For Costs
1237

H. C. DEVINE ET AL.

PLAINTIFFS

VS.

A. G. MILES ET AL.

DEFENDANTS

FILED

DEC 8 1949

ALICE J. DUCK, ^{Clerk} Register

H. C. DEVINE ET AL.

PLAINTIFFS

VS.

A. G. MILES ET AL.

DEFENDANTS

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IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW

NO. 1237

Now come the Defendants and moves the court to grant them a new trial in this cause, and for grounds thereof, say:

1.

The verdict is contrary to law.

2.

The verdict is contrary to the evidence.

3.

The verdict is contrary to the law and evidence.

4.

The court erred in giving, at the request of the Plaintiffs, the following charge: "The court charges the jury that if you believe the evidence in this case you must fine for the Plaintiffs".

5.

The Court erred in refusing to give the following charge at the request of the Defendants: "I charge you Gentlemen of the jury that in a conveyance of land by Government subdivision, the acreage given is merely descriptive and does not determine amounts sold."


Attorney for the Defendants.

Motion For New Trial

H. C. DEVINE ET AL

PLAINTIFFS

VS.

A. G. MILES ET AL.

DEFENDANTS

NO. 1237

FILED
NOV 25 1949
ALICE J. DUCK, Clerk

H. C. DEVINE ET AL.

PLAINTIFFS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

VS.


AT LAW

A. G. MILES ET AL.

NO. 1236

DEFENDANTS

Now come the Defendants, A. G. Miles and Ethel Barginear Miles,
and give notice of appeal from the judgment and verdict of the Circuit
Court of Baldwin County, Alabama, rendered on the 3 day of November,
1949, in the above styled cause to the Supreme Court of the State of
Alabama.


Attorney for the Defendants

Notice of Appeal

1237

H. C. DEVINE ET AL.

PLAINTIFFS

VS

A. G. MILES ET AL.

DEFENDANTS

FILED

DEC 8 1949

ALICE J. DUCK, ^{Clerk} Register

THE STATE OF ALABAMA }
Baldwin County - Circuit Court }

TO ANY SHERIFF OF THE STATE OF ALABAMA — GREETING:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the

..... FIRST Monday in NOV., 1949., in a cer-
tain cause in said Court wherein H. C. DEVINE ET AL.

..... Plaintiff, and
A. G. MILES ET AL. Defendant, a judgment was rendered against said

to reverse which JUDGMENT, the said A. G. MILES ET AL.

applied for and obtained from this office an APPEAL, returnable to the NEXT

Term of our SUPREME Court of the State of Alabama, to be held at Montgomery,
on the day of, 1949 next, and the necessary bond
having been given by the said A. G. MILES ET AL.

..... with H. M. HALL, sureties,

Now, You Are Hereby Commanded, without delay, to cite the said

H. C. DEVINE ET AL. or HYBART & CHASON

....., attorney, to appear at the NEXT Term of our

said Supreme Court, to defend against the said Appeal, if THEY think proper.

Witness, ALICE J. DUCK, Clerk of the Circuit Court of said County, this 13th
day of Dec., A. D., 1949.

Attest:

Alice J. Duck, Clerk.

Executed 12-13-49
By sewing copy of the
within on
John Chason

Taylor Wilkins Sheriff
D. D. Gage - D.S.

CIRCUIT COURT
Baldwin County, Alabama

NO. 1237

H. C. DEVINE ET AL.

Vs. } Citation in Appeal

A. G. MILES ET AL.

Issued day of, 194.....

H. C. DEVINE and ELLA
V. DEVINE,

Plaintiffs,

vs.


A. G. MILES and ETHEL
BARGINEAR MILES,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE.

Come the Plaintiffs in the above styled cause and move the Court to strike pleas 1, 2 and 3 filed by the Defendants in said cause, separately and severally and assign the following separate and several grounds, viz:

1. That said pleas are inconsistent and incompatible.
2. That plea 2 is inappropriate.
3. That plea 2 is immaterial.
4. That plea 2 sets up no defense to the Complaint.
5. That plea 2 seeks to set up defensive matter available to the Defendants under plea 1.
6. That plea 2 describes lands not described in the Complaint and not the subject of this suit.
7. That plea 3 was waived by the filing of plea 1.
8. That plea 3 is inconsistent and incompatible with plea 1.
9. That plea 3 attempts to describe lands not involved in this suit.
10. That plea 3 describes a strip of land 4.8 feet East and West and 680 feet North and South, East of the lands described in said suit which is not covered by said Complaint.


Attorneys for Plaintiffs.

MOTION TO STRIKE PLEAS

H. C. DEVINE and ELLA V.
DEVINE,

Plaintiffs,

vs.

A. G. MILES and ETHEL
BARGINEAR MILES,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE.

Filed February, 25th, 1949.

Alvin J. Hinkle
Clerk.

LAW OFFICES
HYBART, CHASON & STONE
BAY MINETTE, ALABAMA

H. C. DEVINE AND
ELLA V. DEVINE

PLAINTIFFS

VS

A. G. MILES AND ETHEL
BARGINEAR MILES

DEFENDANTS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

AT LAW.

NO. 1237

Now come the Defendants and for answer to the Plaintiffs' complaint say:

1.

Not guilty.

2.

That the Defendants are the owners and in possession of the following described land: North half of Southwest quarter of Southeast quarter of Section 23, Township 5 South, Range 3 East, Baldwin County, Alabama, more particularly described as follows:

Begin at the Southeast corner of Section 23, Township 5 South, Range 3 East, run thence West along the South line of said Section 1349.2 feet to a point, run thence North ~~660~~ feet to a point, the place of beginning, run thence North ~~660~~ feet to a point, the Northeast corner of the Southwest quarter of Southeast quarter of said Section 23, run thence West 1349.2 feet to a point, the Northwest corner of the Southwest quarter of Southeast quarter of the said Section 23, run thence South ~~660~~ feet to a point, run thence East 1349.2 feet to a point, the place of beginning.

3.

The Defendants for further answer to the Plaintiffs' complaint suggest in writing that this suit arises over a disputed boundary line between the properties of the Plaintiffs and the Defendants. The Defendants suggest and allege that the location of the true line between the properties of the Plaintiffs and the Defendants is the East line of the following described tract of land:

Begin at the Southeast corner of Section 23, Township 5 South, Range 3 East, run thence West along the South line of said Section 1349.2 feet to a point, run thence North ~~660~~ feet to a point, the place of beginning, run thence North ~~660~~ feet to a point, the Northeast corner of the Southwest quarter of Southeast quarter of Said

Section 23, run thence West 1349.2 feet to a point, the Northwest corner of the Southwest quarter of Southeast quarter of said Section 23, run thence South ~~600~~ feet to a point, run thence East 1349.2 feet to a point, the place of beginning.

John Lee
Attorney for Defendants

1237

Answer

H. C. DEVINE AND
ELLA V. DEVINE

PLAINTIFFS

VS

A. G. MILES AND ETHEL
BARGINEAR MILES

DEFENDANTS

FILED

OCT 23rd 1948

ALICE J. DUCK, Clerk

STATE OF ALABAMA
BALDWIN COUNTY

IN THE CIRCUIT COURT
LAW SIDE.

TO ANY SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summon A. G. Miles and Ethel Barginear Miles to appear within thirty days from the service of this Writ in the Circuit Court to be held for said County at the place of holding the same, then and there to answer the Complaint of H. C. Devine and Ella V. Devine.

Witness my hand this 24th day of September, 1948.

David J. [Signature]
Clerk.

H. C. DEVINE and ELLA
V. DEVINE,
Plaintiffs,

vs.

A. G. MILES and ETHEL
BARGINEAR MILES,
Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE.

COUNT ONE

The Plaintiffs sue to recover possession of the following described tract of land, viz:-

Begin at the Southeast corner of Section 23, Township 5 South, Range 3 East, run thence West along South line of said Section 1354 feet to a point; run thence North 662 feet to a point which is the point of beginning; run thence West 168 feet to a point; run thence North 662 feet to a point; run thence East 168 feet to a point; run thence South 662 feet to the point of beginning, said land being situated in Baldwin County, Alabama,

of which they were in possession and upon which, pending such possession, and before the commencement of this suit, the Defendants entered and unlawfully withhold, together with Two Hundred Fifty Dollars (\$250.00) for the detention thereof.

Hybert [Signature]
Attorneys for Plaintiffs.

Plaintiffs demand a trial of
this cause by a jury.

Hybert [Signature]
Attorneys for Plaintiffs.

this 25 day of Sept., 1948
TAYLOR WILKINS, Sheriff

Executed 9-29 19 48
by serving copy of within Summons and
Complaint on

A. G. Miles
Ethel Barginear Miles

Taylor Wilkins Sheriff
By H. F. Hall Deputy Sheriff

We the jury find for
the Plaintiff and
fix the boundary line
as stated in the
replication of Plaintiff.
A. McFaulk
foreman

SUMMONS AND COMPLAINT

H. C. DEVINE and ELLA V.
DEVINE,

Plaintiffs,

vs.

A. G. MILES and ETHEL
BARGINEAR MILES,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

Filed September 24th, 1948.

Leicy J. Neuch
Clerk.

LAW OFFICES
HYBART & CHASON
BAY MINETTE, ALABAMA

H. C. DEVINE and ELLA
V. DEVINE,

Plaintiffs,

vs.

A. G. MILES and ETHEL
BARGINEAR MILES,

Defendants.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE.

1237

JUDGMENT:

Judgment having been rendered for the Plaintiffs in the above styled cause fixing the true boundary line to be as set forth in Plaintiffs' replication, which said judgment was rendered on November 3, 1949, and an appeal having been taken by the Defendants in said cause to the Supreme Court of Alabama, and this Court having been ordered by an opinion rendered by the Supreme Court of Alabama on November 9, 1950, to correct its judgment entry to properly describe said division line, said judgment is hereby corrected in accordance with the opinion of said Supreme Court, and the same being considered by this Court it is ORDERED AND ADJUDGED as follows:

1. The division line between the Plaintiffs and the Defendants is established by this court as follows:

Begin at a point 1522 feet West of the Southeast corner of Section 23, Township 5 South, Range 3 East, in Baldwin County, Alabama, run North 662 feet to a point, which is the point of beginning for said division line, run thence North 662 feet to a point.

That said line shall be the West line of the land of the Plaintiffs located in the North half of the Southeast Quarter of the Southeast Quarter of Section 23, Township 5 South, Range 3 East, and the East line of the Defendants of lands owned by them in the North half of the Southwest Quarter of the Southeast Quarter of said Section.

2. That Taylor Wilkins, as Sheriff of Baldwin County, Alabama, is hereby ordered to establish and mark the above described line with visible stakes or markers of a permanent nature.

3. That the Defendants are taxed with the costs of establishing such line.

Dated this 13th day of December, 1950.

Julian A. Madbury, Jr.
Judge.

1237

RECORDED
INDEXED

1237

FILED

DEC 13 1950

ALICE J. DUCK, Clerk

725)
Fairhope, Alabama
31 March, 1951

Mrs. R. S. Duck,
Clerk of Circuit Court,
Baldwin County, Alabama.
Bay Minette, Alabama.

—In account with—

Fairhope Title & Survey Company

ABSTRACTS OF TITLE—LAND SURVEYING

Day Phone: 8222

Night Phones: 3051 and 2584

-TO-

Survey in compliance with court order
to Hon Taylor Wilkins, made at request
of Hon. Taylor Wilkins, on Dec. 21,
1950, in the matter of H. C. Devine
Vs Miles.....\$12.50

Div. No. _____

CERTIFICATE OF APPEAL (Civil Cases)

No. 1237

BALDWIN

County, Circuit Court.

H. C. DEVINE ET AL.

Plaintiff
vs.

A. G. MILES ET AL.

Defendant

I, ALICE J. DUCK, Clerk of CIRCUIT Court,

of BALDWIN County, Alabama, hereby certify that in the cause of

H. C. DEVINE ET AL.

vs.

A. G. MILES ET AL.

Plaintiff....,

Defendant...

which was tried and determined in this Court, on the 3rd day of Nov. 1949

in which there was a judgment for NEW BOUNDARY LINE DOLLARS, in favor of the Plaintiff,

(or judgment for Defendant), the DEFENDANT on the 8th day of Dec.

1949 took an appeal to the SUPREME Court of Alabama to be holden of and for said State.

I further certify that A. G. MILES ET AL. filed
security for cost of appeal, to the SUPREME Court, on the 8th day of Dec.
1949, and that H. W. HALL

are sureties on the appeal bond.

I further certify that notice of the said appeal was, on the 13th day of Dec.
1949, served on HYBART & CHASON as attorney of record for said
appellee, and that the amount sued for was NEW BOUNDARY LINE DOLLARS
(or certain lands) (or personal property)

Witness my hand and seal of this Court, this the 13th day of Dec. 1949

Clerk of the Circuit Court of

BALDWIN

County, Alabama

1237

Fairhope, Alabama
31 March, 1951

Mrs. R. S. Duck,
Clerk of Circuit Court,
Baldwin County, Alabama.
Bay Minette, Alabama.

—In account with—

Fairhope Title & Survey Company

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Vs Miles.....\$12.50

H. C. DEVINE ET AL.

PLAINTIFFS

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

VS.

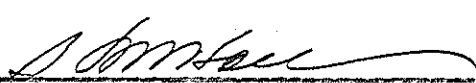
GEORGE W. MILSTEAD

DEFENDANT

IN ~~FILE~~

NO. 1237

Now comes the Defendant, George W. Milstead, and gives notice of appeal from the judgment and verdict of the Circuit Court of Baldwin County, Alabama, rendered on the 3 day of November, 1949, in the above styled cause to the Supreme Court of the State of Alabama.


Attorney for the Defendant

Notice of Appeal

1236

H. C. DEVINE ET AL.

PLAINTIFFS

VS.

GEORGE W. MILSTEAD

DEFENDANT

FILED

DEC 8 1949

ALICE J. DUCK, ^{Clerk} Register